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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,221	03/18/2002	Thomas Kotlarski	1984	9957
7590	04/29/2004		EXAMINER	
Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743			GRAHAM, GARY K	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/088,221	KOTLARSKI, THOMAS
Examiner	Art Unit	
Gary K Graham	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 12 January 2004 and 20 February 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 29-41 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 29-41 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## DETAILED ACTION

### *Claim Objections*

Claims 38-40 are objected to because of the following informalities: In claim 38, line 6, “id” should be ---is---. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29-37 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 29 and 41, line 8, defining that the ends of caps are covered has no clear meaning and does not appear accurate. It is not clear how the ends of the caps are covered or with what they are covered. It appears that what should be claimed is that the ends of the support element are covered with caps. In claim 29, line 9, it appears “has a seat position” should be ---has seat positions--- and in line 11, “the seat position” should be ---their seat positions--- to correspond.

In claim 30, line 4, defining that the seat positions for the caps and the connection device have the same device has no clear meaning. Clarification is requested.

In claims 33 and 34, "the half" should more appropriately be ---the half of the connection device--- to be consistent with claim 29.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29, 33, 35 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilhelm et al (German patent 19802451) in view of Frimley (Great Britain patent 1565955).

The patent to Wilhelm discloses the invention substantially as is claimed, including a curved spring-elastic support element (16) having opposing ends and two band surfaces. On one band surface a wiper strip (20) is provided and on the opposing band surface a connection device (14) is provided. The connection device is provided in a longitudinal midsection of the support element. Caps (26) are provided on and cover opposite ends of the support element. The caps have a U-shaped cross section with U-legs (30) and claws (34).

The patent to Wilhelm discloses all of the above recited subject matter with the exception of the connection device being of a U-shaped cross section wherein U-legs and claws of the U-shape engage the support element.

The patent to Frimley discloses a windshield wiper that includes a spring elastic support (16) supporting a squeegee (8). Frimley discloses the use of connection device (2) for coupling the support element to the wiper arm (36). The connection device is coupled to the support element mid length thereof and has a U-shaped cross section that engages the support element (fig.11). The connection device has claws on U-legs thereof that engage under the support element.

It would have been obvious to one of skill in the art to provide the wiper blade of Wilhelm with a connection device with U-legs and claws that engage the support element, as clearly taught by Frimley, to enable ease of assembly of the connection device with the support element. It appears but a mere substitution of one connection device for another.

With respect to claim 33, note that Frimley teaches partial lateral constriction (fig.2) of the support element to longitudinally hold the connection device on the support element. Such is matched to the length of the connection device. Such a constriction could also be employed in the support element of Wilhelm for like reasons.

As far as claim 40 defines any particular structure, it appears the caps and connection device of the modified Wilhelm blade of assuming a function of each other, in particular, engagement with the support element.

Claims 30-32 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilhelm et al (German patent 19802451) in view of Frimley (Great Britain patent 1565955) as applied to claim 29 above, and further in view of Yang (U.S. patent 5,361,896).

The patents to Wilhelm and Frimley disclose all of the above recited subject matter with the exception of there being multiple blades having different dimensions but the same seat position width.

The patent to Yang discloses that it is known to make wiper blades of various lengths for use with different vehicles (see background). Further, such is notoriously well known. While Yang discloses making length adjustable, he does clearly disclose that making blades and associated support structure of different lengths is known. Note that while Yang discloses various lengths for use with different vehicle designs, the width of the blade and associated structure remains constant. Such aids in the reduction of the number of components that need to be manufactured.

It would have been obvious to one of skill in the art to make the blades of Wilhelm/Frimley of various lengths, as clearly suggested by Yang, to enable use with various vehicles requiring different lengths. It is notoriously well known to make blades of different lengths. Making the blades of Frimley of various lengths would be entirely obvious to enable use with a variety of vehicles. Further, it is known to maintain the width of the blade and associated structure (support element), see Yang, even while providing different lengths. It would be obvious to one of skill in the art to maintain the width of the blade and associated structure (support elements) when providing multi length blades of Frimley to enable universal fitting with the

connection device. It is common industry practice to employ constant width while providing various lengths. Such enables differing length blades to be used with common supporting structure (connection devices), thus reducing production costs.

*Double Patenting*

Applicant is advised that should claim 29 be found allowable, claim 41 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

*Allowable Subject Matter*

Claims 34 and 36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

Applicant's arguments with respect to claims 29-33, 35 and 37-41 have been considered but are moot in view of the new ground(s) of rejection.

In-so-far as applicant's arguments relate to the now advanced rejection, they will be addressed. Applicant argues that the structural principle of Yang could not be modified to a wiper blade as suggested by Wilhelm since Wilhelm does not employ brackets. However, the concepts of various lengths for various vehicles could clearly be taken from Yang and employed by Wilhelm. Otherwise, the blade structure suggested and disclosed by Wilhelm could only be used on a few vehicles. Yang clearly suggests making blades of various lengths for various vehicles. Note, that for a 16 and 17 inch blade, it appears the same number of support brackets are employed (column 4,15-30). Thus, Yang teaches various lengths having a common width for the same supporting structure. By employing such teachings, it appears that at least two different length blades with support elements could be provided for a common connection device.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary K Graham  
Primary Examiner  
Art Unit 1744

GKG  
26 April 2004